HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2393 OF 1997.

Nityanand Engineering Works,
Proprietory Firm having Office
at Near Municipal School,
159-A, Kharalwadi, Pune- 411 008 ...Petitioner.

Versus.

1. Union of India.
(Respdt No.1 is deleted)

2. State of Maharashtra,
Director of Agriculture,
Mantralaya, Mumbai.

3. Addl. Director of Agriculture,
(Inputs QC), Pune. ...Respondents.

CORAM: S.B.MHASE &
D.G.KARNIK, JJ.

DATE : JANUARY 9, 2006.

ORAL JUDGMENT (PER D.G.KARNIK, J.).

1. None present for either side.

2. By this petition, the petitioner challenges the validity of the decision taken by the Central Fertilizer Committee in its meeting held on 17th April 1996, a copy of which is annexed as EXHIBIT-"C" to this petition.

3. The petitioner is a proprietary concern engaged in the business of manufacture of Micronutrient

Fertilizer Mixtures in the State of Maharashtra. Under the Fertilizer (Control) Order, 1985, every manufacturer of Micronutrient Fertiliser is required to obtain a licence for manufacture of micronutrient fertilizers. Clause- 21-A of the Fertilizer (Control) Order, 1985 prescribes that every manufacturing unit of a micronutrient fertilizers shall possess and install laboratory facilities required for testing. Central Fertiliser Committee in its meeting held on 17th April 1996 considered the issue of minimum laboratory facilities necessary for micronutrient fertiliser manufacturing units. The Committee was of the view that contents of the micronutrient fertilisers need to be analysed and as the very name suggests that the contents would be in micro quantities; hence it would be necessary to test the contents with the help of the special machine.

. The Committee was also of the opinion that an indigenously developed machine for testing of the contents micronutrients was available in the market. The Committee, therefore, resolved that every manufacturing unit should have a micro processor bases unit for testing of the contents micro nutrient fertilisers. That decision of the Committee is impugned in this writ petition.

4. We did not have the benefit of hearing the learned counsel for the petitioner, who was absent though called.

5. We have perused the petition. We do not find anything in the petition for setting aside the decision of the Committee. The petition does not contain any averment that the Central Fertiliser Committee had no power to prescribe the criteria for grant of licence or for fixing minimum laboratory facilities required for the grant of licence. It is also not alleged that the decision of the Committee who actuated by malice in fact or law or was taken with a view to benefit manufacturers of any particular testing machines. The allegation in the petition is that cost of the machine was Rs.3,20,000/-, and the petitioner could not afford it. In our opinion, this alone cannot be a ground for setting aside the decision of the Committee.

6. We, therefore, find no merit in the petition and it is hereby dismissed, with no order as to costs.

(D.G.KARNIK,J.) **(S.B.MHASE, J.)**